



# County of Los Angeles CHIEF EXECUTIVE OFFICE

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From: William T Fujioka  
Chief Executive Officer

## CIVIL GRAFFITI CITATION PILOT PROJECT

On October 9, 2007, your Board instructed the Chief Executive Office (CEO) to work with County Counsel, the Sheriff, and the Director of Public Works to:

1. Designate which department would operate as the lead agency in civil graffiti citation cases;
2. Create a pilot project that would:
  - a. Establish a set of civil fine standards whereby graffiti vandals - and, in the cases involving minors, their parents - would automatically be issued a base fine and the cost of graffiti clean-up upon receiving a graffiti citation; and
  - b. Establish an Administrative Hearing Panel whose members would convene in graffiti vandalism cases and would provide due process to accused graffiti vandals - and, in the cases involving minors, their parents - in a process similar to traffic court;
3. Determine if any existing County ordinances or policies must be amended in order to accomplish the aforementioned directives and, if so, supply the Board with amending language specifically to achieve these objectives; and supply a written report within 30 days on the progress of implementing these directives.

## **LEAD AGENCY**

The CEO, assisted by County Counsel, is currently in the process of identifying the appropriate department to serve as the lead agency/issuing department responsible for the Civil Graffiti Citation Program. As the lead agency, the selected department will be responsible for overseeing the administrative hearing process, including conducting the administrative hearing and collecting the administrative fine, non-compliance fee, and restitution. During the 2008-09 Proposed Budget phase, we will work with the selected department to identify the appropriate operational staff and costs required to fully implement this program. In addition, we will provide the Board with a final recommendation for the lead agency, detailed funding requirements, and a timeframe for implementation.

## **COUNTY ORDINANCE PROVISIONS**

The following is a summary of the current available civil remedies allowable under the County's Title 13 Public Peace, Morals and Welfare and Title 1 General Provisions ordinances when graffiti is placed on public or private property and County Counsel's recommended changes to those ordinances. The recommended changes will assist the lead agency in achieving the Board motion's stated objectives.

### **Title 13 - Chapter 13.12 Graffiti Prevention, Prohibition and Removal**

Section 13.12.030 makes it unlawful for any person to apply graffiti on any County-owned property or without the permission of the owner or occupant of any non-County-owned property within the unincorporated area of the County.

Currently, Section 13.12.100 provides that any person applying graffiti shall have the duty to remove the graffiti within 24 hours of notification by the County or private owner and is responsible for removal of or the cost for the County to remove the graffiti. Failure to remove the graffiti or remit payment to the County for their incurred cost is an additional violation. In cases where the graffiti is applied by an un-emancipated minor, the parent(s) or legal guardian(s) are also responsible for the removal or payment of costs. The Sheriff, Department of Public Works (DPW) Director or designee, or any other County department head as authorized by the Board of Supervisors may convert the payment into equivalent forms of community service hours.

County Counsel recommends Section 13.12.100 be amended as follows:

- (1) Clarify the County is not required to notify the graffiti perpetrator prior to removing the graffiti and assessing costs for the removal;

- (2) If graffiti removal is performed by the County, the County will serve a statement of expense to the perpetrator and to the parent or legal guardian if the perpetrator is an un-emancipated minor;
- (3) Payment for graffiti removal will be due within a specified number of calendar days following service of the expense statement; and
- (4) Failure to remove the graffiti or to pay expenses enables the County to impose civil fines pursuant to Chapter 1.25 in addition to any other notices of violation, fines, fees, or penalties.

County Counsel indicates that Section 13.12.100 already contains language which allows the graffiti perpetrator to request community service in lieu of restitution and recommends the section be amended to allow the parent and/or legal guardian to request parenting classes in lieu of restitution.

Section 13.12.110 currently provides the methods under which the County has the right to use public funds to remove graffiti from County and non-County owned property, and to commence abatement proceedings against property owners and persons who have primary responsibility for the control of the graffiti-defaced property.

County Counsel recommends Section 13.12.110 be amended to include a new subsection to provide a process whereby the County can summarily abate graffiti nuisances and collect abatement and related administrative costs from the graffiti perpetrator and his or her parent or legal guardian. Payment will be due within a specified number of days following service of the statement of expense for the abatement, unless the graffiti perpetrator or his or her parent or legal guardian requests a hearing. This process will also allow the County to record a lien or special assessment against the parcel of land owned by the graffiti perpetrator and his or her parent or legal guardian.

Section 13.12.140 provides for civil remedies and states that any violation of the provisions of this chapter constitutes a nuisance and may be abated by the County through a civil process.

County Counsel recommends Section 13.12.140 be amended to provide that in addition civil penalties may be imposed against anyone who violates any provisions of the code pursuant to Chapter 1.25.

**Title 1 - Chapter 1.25 Administrative Fines and Non-compliance Fees for Code Violations**

Section 1.25.020 E defines the issuing department as the County department that issues the notice of violation and has the authority and responsibility for enforcing the code section that is the subject of the notice of violation. In addition, Subsection F defines the responsible person as the person responsible for, or alleged to be responsible for, the code violation. It also provides that there may be more than one responsible person for a code violation. However, there is no provision for identifying a parent or legal guardian of a minor as the responsible person.

County Counsel recommends Section 1.25.020 be amended to add to the definition of issuing department the following language: "A notice of violation may also be issued by law enforcement on behalf of the issuing department."

County Counsel further recommends the definition of responsible person be amended to include the parent or legal guardian of a person under the age of 18, in the parent or legal guardian's custody and/or control, who willfully violates any provisions of the code.

Sections 1.25.040 and 1.25.060, respectively, provide that each violation of the code and each separate offense are subject to an administrative fine and non-compliance fee. The fine imposed is a penalty, the amount to be determined by the enforcement officer; and the non-compliance fee will reimburse the issuing department for their costs incurred for enforcement of the code violations and is determined by the Auditor-Controller.

County Counsel is recommending Sections 1.25.040 and 1.25.060 be amended to provide in lieu of paying an administrative fine, the responsible person may elect to serve community service, in the case of a minor, or attend parenting classes, in the case of a parent or legal guardian, for violations of County Code Sections 13.12.030 and 13.12.100.

Section 1.25.050 and 1.25.070 allows the County to impose, on the responsible person, administrative fines and non-compliance fees concurrently with the notice of violation issued by the enforcement officer.

Section 1.25.080 provides that any responsible person served with a notice of administrative fine or non-compliance fee may submit a written request for an administrative hearing to contest the imposition of and/or amount of the administrative fine/non-compliance fee. This request must be accompanied by a deposit of the full amount of the fine/fee unless the person submits a request for a hardship waiver.

The hardship waiver request is reviewed by the department head of the issuing department. If the hardship waiver is granted, then the person may have a hearing without making any advance deposit.

Section 1.25.100 provides the responsible person with the right to judicial review of the hearing officer's written decision. However, if no timely appeal is filed, the hearing officer's decision is deemed confirmed.

### **PILOT PROJECT**

The CEO and County Counsel are recommending the following procedures for the Civil Graffiti Citation Program.

Upon arrest of the perpetrator, the Sheriff's Department will serve, on behalf of the issuing department, a Notice of Violation and Notice of Imposition of Administrative Fine and Non-compliance Fee to the responsible person(s), assessing the administrative fine and non-compliance fee pursuant to County Code Sections 13.12.030, 1.25.040 and 1.250.060. The responsible person will include the violator(s) and, in the case of a minor, the parent or legal guardian. The Sheriff's Department will concurrently refer the case to the District Attorney for criminal prosecution and will notify the issuing department of the issuance of the Notices.

### **Summary Abatement – Restitution**

Following the removal of the graffiti by the DPW graffiti abatement program, the issuing department will mail a statement of expense to the graffiti perpetrator and his or her parent or legal guardian, pursuant to County Code Section 13.12.100. Payment will be due within a specified number of days following service of the statement of expense for abatement unless the perpetrator or his or her parent or legal guardian requests a hearing. If elected by the graffiti perpetrator or his or her parent or legal guardian, the issuing department may convert payment of expenses into equivalent hours of community service or parenting classes. If payment is not received, an additional violation of County Code Section 13.12.100 may be assessed and an additional administrative fine may be imposed pursuant to County Code Sections 1.25.040 and Section 1.25.060.

### **Administrative Fine and Non-compliance Fee**

Upon receipt of the Notice of Violation, the responsible person will have 10 calendar days from the date of service to pay the administrative fine and non-compliance fee or contact the issuing department to request an administrative hearing. If the responsible

person does not request an administrative hearing, the issuing department will collect the administrative fine and non-compliance fee through the County's collection process.

If the responsible person requests an administrative hearing to contest the administrative fine and non-compliance fee, they must deposit the full amount of the assessed fine and non-compliance fee or request a hardship waiver. The department head or their designee will either grant or deny the hardship waiver based on specified financial and medical hardship criteria. If the hardship waiver is granted, no deposit is required by the responsible person prior to the administrative hearing. The issuing department will schedule and mail the Notice of Administrative Hearing.

If the hardship waiver is denied, the issuing department will mail the Notice of Denial and the responsible person must deposit the full amount of the assessed fine before a hearing is scheduled. If the deposit is not received, the issuing department will collect the administrative fine and non-compliance fee. If the deposit is received, the Department will schedule and mail a Notice of Administrative Hearing.

The administrative hearing will be held and conducted by the department head or their designee. The hearing officer will be required to issue a decision within 10 calendar days following the hearing. The Notice of Hearing Officer's Decision will be mailed to the responsible person. The Department will either collect the administrative fine and non-compliance fee or refund the responsible person's deposit, whichever is applicable.

The process will also allow the responsible person to request a continuance of the administrative hearing, if needed.

As previously indicated, our office will continue to work with County Counsel to identify the appropriate department to implement and oversee the administrative responsibilities associated with this program. The CEO will also work to determine whether or not implementation of this program requires additional resources. However, it is our goal to implement this program in conjunction with the Sheriff's Department's Graffiti Tracker Program and Vandalism Enforcement Team and seek ways to mitigate additional cost to the fullest extent possible.

## **CONCLUSION**

Graffiti is a crime that encourages gang related turf wars, fosters drug activity, and nurtures hate crimes. Not only is graffiti unattractive, it is costly. Millions of dollars per year are spent by our State and local governments to combat graffiti tagging and property damage. Neighborhoods marked with graffiti tagging are also prone to other forms of crime because it promotes the idea that no one cares. Graffiti reduces

property values, negatively impacts businesses, and has a direct impact on increased gang activity.

Combating graffiti tagging requires a comprehensive approach that includes education prevention, law enforcement participation, and community involvement. Penalties for the violation of graffiti statutes and ordinances include imposition of fines and imprisonment, restitution, parental liability, and community service. It is our hope the above recommended program and ordinance changes reflect the measures the Board believes will be most effective in addressing the graffiti problem in the communities we serve.

Should you have any questions or require additional information, please contact Deputy Chief Executive Officer Doyle Campbell, Public Safety, at (213) 893-2374.

WTF:SRH:RDC  
JW:SW:GY:yjf

c: County Counsel  
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Graffiti.Motion.bm